

## Message Text

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ORIGIN ARA-10

INFO OCT-01 ISO-00 L-03 EB-07 COME-00 DOTE-00 AID-05

JUSE-00 AGR-05 SAB-01 PM-04 NSC-05 SP-02 SS-15

CIAE-00 INR-07 NSAE-00 DODE-00 /065 R

DRAFTED BY ARA/PAN:DJPEASHOCK/ENADEAU/GCHESTER:ZC

APPROVED BY ARA/PAN:ENADEAU

ARA/NC/C:MR. COX

L/ARA:GCHESTER

ARA/ECP:WFALKNER

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P 062227Z NOV 75

FM SECSTATE WASHDC

TO AMEMBASSY PANAMA PRIORITY

INFO AMEMBASSY BOGOTA PRIORITY

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E.O. 11652:N/A

TAGS:EILN, PN, CO

SUBJECT:DARIEN 6AP HIGHWAY PROBLEM

REFERENCE: PANAMA 6714

1. REPRESENTATIVES OF THE DEPARTMENTS OF TRANSPORTATION, JUSTICE, AGRICULTURE AND STATE MET ON OCTOBER 29 TO DEVELOP A STRATEGY AIMED AT RESOLVING THE PROBLEM. IN SUBSTANCE, THE CONSENSUS WAS THAT THE DEPARTMENT OF JUSTICE SHOULD PETITION THE U.S. DISTRICT COURT FOR RECONSIDERATION OF ITS REFUSAL TO BALANCE THE EQUITIES OF THIS CASE AND FOR A PARTIAL STAY OF ITS PRELIMINARY INJUNCTION AS TO CONSTRUCTION ALREADY UNDERWAY OR READY TO BEGIN IN PANAMA.

IF THE STAY IS DENIED OR A DECISION IS DELAYED BY THE DISTRICT COURT, THE ISSUE WOULD BE TAKEN TO THE COURT OF AP-

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PEAL. FYI: WE ARE NOT CERTAIN THAT EFFORTS FOR A STAY OR

FAILING THIS, AN APPEAL, WILL BE SUCCESSFUL. END FYI.

2. IN ORDER TO REQUEST A STAY OF THE COURT'S ORDER, JUSTICE HAS REQUESTED:

A. AN AFFIDAVIT FROM STATE ON THE FOREIGN POLICY ASPECTS OF THE INJUNCTION IN PANAMA.

B. AN AFFIDAVIT FROM DOT ON THE SCOPE OF THE CONSTRUCTION THEY WOULD PROPOSE TO PURSUE, I.E., CONSTRUCTION IN THE NORTHERN SECTOR OF THE PANAMA PORTION.

C. AN AFFIDAVIT FROM DOT STATING THAT DOT WILL COMPLY IMMEDIATELY WITH THE ORDER AT LEAST TO THE EXTENT IT AFFECTS THIS SECTION OF CONSTRUCTION IN PANAMA AND AN INDICATION OF TIME NEEDED TO PREPARE A STATEMENT MEETING THE STANDARDS ESTABLISHED BY NEPA (DOT HAS AGREED IN PRINCIPLE TO COMPLY WITH THE ORDER).

D. AN AFFIDAVIT FROM AGRICULTURE THAT CONSTRUCTION OF THIS SEGMENT IN PANAMA WILL NOT INCREASE THE RISK OF THE SPREAD OF AFTOSA TO THE UNITED STATES.

3. THE JUSTICE REPRESENTATIVE POINTED OUT THAT, IN HIS VIEW, THE NATIONAL INTEREST AFFIDAVIT FROM STATE WAS AN ESSENTIAL ELEMENT IN A REQUEST FOR A STAY OF THE INJUNCTION.

4. ROGERS AUTHORIZED TODAY THE PREPARATION OF AN AFFIDAVIT FOR HIS SIGNATURE.

5. FYI: WE ARE INFORMING DOT AND JUSTICE OF OUR WILLINGNESS TO PROVIDE THE AFFIDAVIT AS SOON AS WE ARE ABLE TO WORK OUT AN AGREEMENT THAT THEIR FUTURE ACTIONS AND STRATEGY IN THIS CASE WOULD BE CONSISTENT WITH OUR POLICY OBJECTIVES AND LEGAL VIEW REGARDING THE APPLICABILITY OF THE NEPA TO PROJECTS ABROAD (I.E., THAT A STATEMENT IS ONLY REQUIRED WHERE THE ACTIONS TAKEN ABROAD HAVE A DIRECT EFFECT ON THE U.S. ENVIRONMENT).

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6. ALTHOUGH REACHING AGREEMENT WITH DOT AND JUSTICE MAY CAUSE SOME INITIAL DELAY, BELIEVE COORDINATED APPROACH IS BEST SOLUTION TO PROBLEM. THE JUDGE WOULD BE REQUESTED, IN EFFECT, TO VIEW DISTINCTLY THAT PORTION OF THE HIGHWAY ALREADY UNDER CONSTRUCTION WHOLLY WITHIN PANAMA, AND TO LEAVE FOR LATER CONSIDERATION THE PORTION BRIDGING PANAMA AND COLOMBIA.

7. PLEASE INFORM GOP AS APPROPRIATE OF USG EFFORTS TO  
RESOLVE PROBLEM. WE WILL KEEP EMBASSY ADVISED OF KEY  
DEVELOPMENTS AS THEY OCCUR. KISSINGER

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## Message Attributes

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**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** INTERAGENCY COOPERATION, LITIGATION, CONSTRUCTION, DARIEN GAP HIGHWAY PROJECT, AFFIDAVITS, HIGHWAYS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 06 NOV 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** GolinoFR  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
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**Reference:** 75 PANAMA 6714  
**Review Action:** RELEASED, APPROVED  
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**Review Date:** 08 SEP 2003  
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**Status:** NATIVE  
**Subject:** ARIEN 6AP HIGHWAY PROBLEM  
**TAGS:** ELTN, PN, CO, US  
**To:** PANAMA  
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